IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.W.P. No.16104 of 2006
Date of decision: July 23,2007

Smt.Gian Kaur and others V. Union of India

CORAM: HON'BLE MR.JUSTICE P. SATHASIVAM
HON'BLE MR.JUSTICE ARVIND KUMAR

Present: Mr. M.S. Khaira, Senior Advocate with
Mr. Dharminder Singh, Advocate, for the petitioner.
Mr.Rajiv Sharma, Advocate, for the respondents.

1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?

2. To be referred to Reporters or not ?

3. Whether the judgment should be reported in the Digest ?

P.Sathasivam,J.

Wife and children of Late Shri Chanan Singh, aggrieved by order dated 27.11.1997 (Annexure P/1) passed by the Deputy Secretary to Government of India, Ministry of Home Affairs,Union of India rejecting their claim for Swantantrata Sanik Samman Pension Scheme,1980 (in short " S.S.S. Pension"), have filed the above writ petition to quash the same and issue direction to the respondent for grant of S.S.S. Pension.

According to the petitioners, Late Shri Chanan Singh served imprisonment in freedom movement. He was a member of the Indian National Army led by Neta Ji Subhash Chander Bose; he was taken as prisoner and served imprisonment in Malasia and came back to India only in 1947. Based on the scheme framed by the Government of India, Shri Chanan Singh along with affidavits

from his co-patriots namely, Jagir Singh and Harnam Singh applied for the grant of S.S.S. Pension along with necessary certificates. Though he complied with all the formalities, he received a letter from Deputy Secretary, Government of India, Department of Home Affairs, rejecting his claim for S.S.S. Pension on the ground that he has failed to produce acceptable documentary evidence in support of his claim as required under the scheme. Questioning the said order, his wife and children preferred the present writ petition.

The respondent has filed a reply wherein it is stated that the claim of Chanan Singh has been rejected after due consideration of his case and his legal representatives, petitioners herein, also failed to furnish relevant documents as required under the S.S.S.Scheme,1980.

We have heard Shri M.S.Khaira, Senior Advocate for the petitioners as well as Shri Rajiv Sharma,Advocate for the respondent.

It is the claim of the petitioners that Chanan Singh after serving in the Army led by Neta Ji Subhash Chander Bose and General Mohan Singh, was taken as a prisoner and served imprisonment in Malasia. According to them, Chanan Singh came back to India only in 1947. It is also their claim that through Chanan Singh applied for grant of S.S.S. Pension, enclosing certificates from his co-patriots,namely, Jagir Singh and Harnam Singh, his claim was erroneously rejected by the respondent. In the light of the above assertions, we verified the impugned order of the respondent, which merely shows that the applicant has not furnished relevant documents. In the matter of this nature, particularly when the Government of India wants to help freedom fighters and the persons who suffered imprisonment at the hands of British for freedom

struggle, the claim of the eligible persons are to be considered in terms of the scheme. It is to be noted that nearly six decades had gone and at this juncture they cannot expect primary evidence in support of their claim for pension.

According to the petitioners, the affidavits issued by Jagir Singh and Harnam Singh are acceptable, since they were co-prisoners/ co-patriots. It is not clear from the impugned order, whether the certificates/affidavits of the above mentioned persons are acceptable in terms of the scheme. This has not been specifically stated.

It is also brought to our notice that taking note of the fact that Chanan Singh participated in the National Freedom Movement, his name has been included in the Publication WHO'S WHO, Punjab Freedom Fighters published by Punjabi University, Patiala edited by Dr. Fauja Singh. The petitioners have produced copy of the entry which reads as under :

> " Chanan Singh: P.Dipa Singh: B.1923 V&PO Bhinder Kalan, T. Zira,Distt. Ferozepur; Ed. Literate; Occ.Agriculture; was Civ. In Malaya; joined I.N.A. T Kaula Lumper; sent to Singapore; served at Johar Baharu and Ipoh; taken P.O.W. and released; returned India in 1947."

The name of both Jagir Singh and Harnam Singh also figured in the same publication at pages 5 and 549, copies of entries are reproduced below.

> "Jagir Singh
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> p. Nidhan Singh b.1914 V.Burj Dunnid t. Moga; dt. Ferozepur; ed. Knows punjabi; occ. Agriculture; was sepoy No.44716 in I.A.; joined I.N.A. In 1942 at

Singapur; fought on Burma front; taken P.O.W. at Popa Hill; kept in Chittagong, Jigar Kacha and Ambala Jails."

Harnam Singh

p. Kaka Singh; b. 1904, v. Bhai Samadh, t. Moga, dt. Ferozepur; ed. Knows Punjabi; occ. Agriculture; was constable No.400 in Sarawak Police; contributed 1000 dollars to the I.N.A. Fund; joined I.N.A. In 1942 at Singapore and served upto Sept.1945."

The impugned order does not refer the above mentioned relevant particulars while rejecting the claim of Chanan Singh. It is also brought to our notice that when an application was made to the State of Punjab for sanction of State Freedom Pension, the same was rejected on the ground that he must first apply and get pension from Government of India. Copy of the said letter has been appended as Annexure P/2. This aspect was also not noticed by the respondent while rejecting his claim for S.S.S. Pension. Apart from the above mentioned factual details, it is also highlighted that in those days particularly during freedom movement, prisoners were not detailed at one place and place of detention was being changed frequently, while the fact of Chanan Singh, Jagir Singh and Harnam Singh being freedom fighters having served as members of Indian National Army is a part of record which was supported by a standard publication after research by a Committee of eminent historians. Dr.Fauja Singh, MA Ph.D., Department of History, Punjabi University was its Chief Editor assisted by Dr.C.L.Dattta, M.A. Ph.D., Dr.S.K.Bajaj, Gurcharan Singh and M.S.Ahluwalia.

As observed earlier, except stating that the applicant has not furnished the relevant documents, the impugned order does

not disclose any reason. In view of the above particulars as stated in the petition, which we have referred to in the earlier paragraphs, we are of the view that ends of justice would be met by directing the respondent to reconsider and pass fresh order on the application for grant of S.S.S. Pension. On this ground, the impugned letter dated 27.11.1997(Annexure P/1) passed by the respondent is set aside and the respondent is directed to reconsider and pass appropriate order, taking note of all the above mentioned relevant materials, within a period of three months from the date of receipt of copy of this order. The petitioners are also directed to furnish any other additional material in support of their claim to the respondent within a period of two weeks from the date of receipt of copy of this order.

The writ petition is allowed in the above terms.

No costs.

(P. SATHASIVAM)
JUDGE

July 23, 2007 (ARVIND KUMAR)
sks JUDGE